ORIGINAL

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EX PARTE

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March 20, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary, Federal Communication Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Ex Parte Presentation of Covad Communications Company in CC Docket No. 00-4, *Application by SBC Communications Inc., et. Al. For Provision of In-Region, InterLATA Services in Texas*

Dear Ms. Salas,

Commission staff has requested Covad to provide periodic updates as to SWBT's implementation of the DSL Arbitration Award, the Covad-SWBT Interconnection Agreement, and other DSL-related proceedings in Texas. In particular, Covad has been requested to respond to SWBT's March 10, 2000 *ex parte* presentation, in which it includes a table charting implementation of the "commitments" it made to the Texas Commission on December 16, 1999.

The Table Demonstrates that the Application was Not Complete as Filed. For several commitments, the table rests upon the SWBT-Covad Interconnection Agreement as proof of implementation.[1] However, as described in the Goodpastor Reply Declaration, that agreement was only signed and filed before the Texas Commission on February 18, 2000. There is no operational experience in the record as to SWBT's performance under this agreement.

SWBT has not Actually Implemented All Changes to its Ordering Process. For a substantial percentage of its orders, Covad continues to experience the cumbersome "supplement" process outlined in its Opening Comments and the Declaration of Michael Smith.

For loops over 12,000, Covad orders that do not meet SWBT standards for DSL service are still initially rejected by SWBT, requiring Covad to "supplement" the order. As described in by Covad in its Comments, Covad experiences initial rejections if the loop is too long for SWBT's retail ADSL service or does not meet the spectrum design parameters for SWBT's retail services. This process significantly delays processing of Covad's DSL loop orders—especially for orders of loops for Covad's SDSL service.[2] As

[1] Including, for example, elimination of the binder group management system, improvements to pre-order and ordering processes, and acceptance testing.

[2] Pursuant to the 12/15/99 Chapman Affidavit at ¶ 15, none of these orders will be subject to the performance measures. To obtain an indication of the extent of these exclusions, Covad today took a random sample of the number of loop "rejects" that it currently has in Texas that are pending in Covad's

long as this reject/supplement process remains in place for a substantial number of Covad orders, Covad is concerned that SWBT may still be reserving particular binder groups for ADSL deployment or that it is using power spectral density (PSD) mask submitted by Covad with its order to delay deployment of non-ADSL technologies.

Simply saying that a change has been implemented does not implement the change. In classic *Through the Looking Glass*-style, SWBT appears to argue that if it says something enough times, it must be true. The March 10 *ex parte* table cites the December 15, 1999 Affidavit of Carol Chapman to prove that it "implemented" a commitment made to the Texas Commission on December 16, 1999.

Setting the chronological complexity of SWBT's argument aside,[3] Commission staff should be advised to read the 12/15/99 Chapman Affidavit once again. In paragraph 3, the Chapman affidavit clearly states that these changes "are subject to the [Texas] Commission's endorsement of its application with the FCC seeking long distance relief." That affidavit, then, discusses changes that SWBT *would be willing to make* in the event the Texas Commission blessed its 271 application. At most, the 12/15/99 Chapman Affidavit is an "offer" and not proof of implementation. No doubt, had the Texas Commission refused to approve SWBT's application on December 16, 1999, SWBT would not implement the changes it described on December 15, 1999.

Acceptance Testing Only Now Available to Certain CLECs in Texas. The attached accessible letter indicates that only as of March 18, 2000 did SWBT made DSL loop "acceptance testing" available to Covad.[4] Therefore, even though SWBT's March 10 *ex parte* to this Commission indicated that it had "implemented" acceptance testing because of the Feb. 18, 2000 Covad-SWBT Interconnection Agreement, there was no mechanism for CLECs to order this testing until last Saturday, March 18, 2000. As discussed by Covad and other CLECs in comments, the unavailability of acceptance testing robs CLECs and the Commission of valuable insight with regard to xDSL-capable loop installation intervals. It took over three months for SWBT to make available what it "committed" to do on December 16, 1999—despite the fact that SWBT's sister company, Pacific Bell, has been providing Covad acceptance testing for several months now.

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systems. In this sample, approximately 40% of loop orders rejected by SWBT were rejected because SWBT has not implemented changes to its pre-ordering and ordering systems that would stop the use of reject/supplement. At the request of Commission staff, Covad is still attempting to collect data on this point.

[3] SWBT has already alleged similar rifts in the space-time continuum in this proceeding. As Covad discussed in its March 1, 2000 *ex parte*, SWBT's Reply attempted to prove that Covad "receives" faxes on a different date than when SWBT "transmits" the fax by providing ten fax cover sheets that reveal nothing about the apparent temporal anomaly between the two machines.

[4] *See* March 14, 2000 Accessible Letter at 5 (attached). It is important to note that acceptance testing is *only* available to CLECs that have the rights to that testing as part of their interconnections agreements.

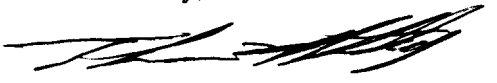
SWBT has not made Enhancement to Loop Qualification Process Available by the Date Promised in the Chapman Affidavit and the OSS Plan of Record. Covad has *already* directly experienced SWBT's failures to implement promised changes. In ¶ 27 of the 12/15/99 Chapman Affidavit, SWBT committed to "improve the availability of information pertaining to the pre-ordering and ordering of DSL-based services," referencing the attached OSS Plan of Record.[5] The OSS Plan of Record clearly states that SWBT will provide mechanized access to certain loop qualification information on March 18, 2000.[6] In an accessible letter dated March 14, 2000, SWBT declared that this function would be available through DataGate and Verigate on March 18, 2000.[7]

However, when Covad attempted to utilize this mechanized loop qualification tool today, that tool was not operational. Covad made several attempts to contact its SWBT account team today to understand why this loop qualification tool is unavailable. As of this writing, SWBT has not responded to these inquiries.[8]

This incident proves that SWBT's actions speak louder than words. SWBT's failure to implement this key component of the 12/15/99 Chapman Affidavit proves that the Commission cannot simply rely upon SWBT's verbal commitments in this proceeding. The proper course for the Commission in this proceeding is to reject SWBT's application and demand that it implement and prove full compliance with *all* aspects of the DSL Arbitration Award, the *UNE Remand Order*, the *Line Sharing Order*, and the *SBC/Ameritech Merger Order*. The 271 process deserves no less.

Two copies of this Notice are being submitted to the Secretary in accordance with Section 1.206(a)(2) of the Commission's rules.

Sincerely,



Thomas M. Koutsky

cc: Jessica Rosenworcel, FCC Common Carrier Bureau (via fax)
Audrey Wright, Common Carrier Bureau
Katherine Farroba, Texas PUC
ITS

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5 12/15/99 Chapman Aff. ¶ 27. Section 5.4 of the Covad-SWBT Agreement requires SWBT to improve its DataGate interface to provide electronic access to loop makeup information.

6 OSS Plan of Record at 17 (attached to 12/15/99 Chapman Affidavit).

7 The accessible letter is attached to this *ex parte* presentation. This mechanized loop qualification tool contains significant information about the presence of load coils and bridged taps on loops—information fully available to SWBT retail operations personnel. Electronic access to this information could substantially speed the loop ordering and provisioning process.

8 Not only does this failure today indicate SWBT's failure to "implement" the 12/15/99 Chapman Affidavit, it would also seem to be a violation of the SBC-Ameritech Merger Conditions.

Accessible

Southwestern Bell | SBC global network

"xDSL Capable Loops: Upcoming Enhancements to Current Loop Qualification and Order Processes – Arkansas, Kansas, Missouri, Oklahoma, Texas"

Date: March 14, 2000

Number: CLEC00-062

Contact: Southwestern Bell Account Manager

The purpose of this accessible letter is to identify the modifications to xDSL pre-order and order processes resulting from the upcoming enhancements to DataGate, EDI and Verigate interfaces. All the current processes will remain unchanged unless specifically noted in this letter.

All of the changes discussed in this letter will be effective with the March 18, 2000 release.

Loop Qualification

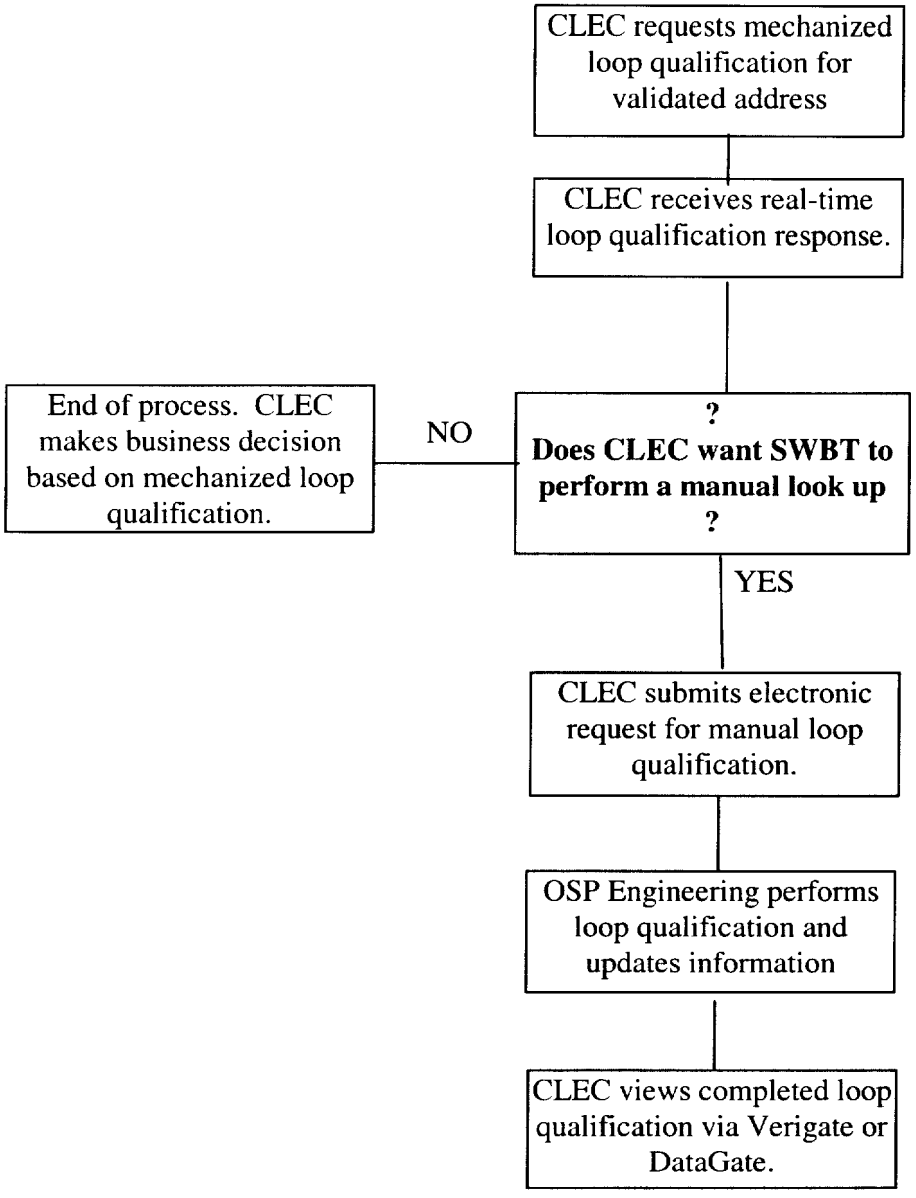
As of the March 18, 2000 release, loop qualification will no longer be a completely manual process. CLECs will have the ability to obtain loop make-up information based upon the standard loop design for the longest loop in the end user's distribution area through Verigate and DataGate. CLECs will be able to place any xDSL capable loop orders based upon this information. There will be no requirement for a manual look-up of loop make-up information.

In addition, CLECs will also have the ability to request that a manual loop qualification be performed using these same interfaces. CLECs will no longer send manual loop qualification requests to the LSC, but will submit them directly through Verigate or DataGate.

A tracking number will not be provided on a completed loop qualification as of March 18, 2000.

The following flow chart illustrates the new loop qualification flow.

UNE xDSL-Capable Loop Qualification Process *



Ordering

With the introduction of mechanized loop qualification, SWBT will automatically perform a mechanized loop qualification upon the receipt of a valid LSR. As a result, the CLEC will no longer need to indicate via a tracking number whether or not a loop qualification has been performed on a pre-order basis. This also eliminates issues surrounding the expiration of the loop qualification results as a new loop qualification will be performed each time an LSR is submitted.

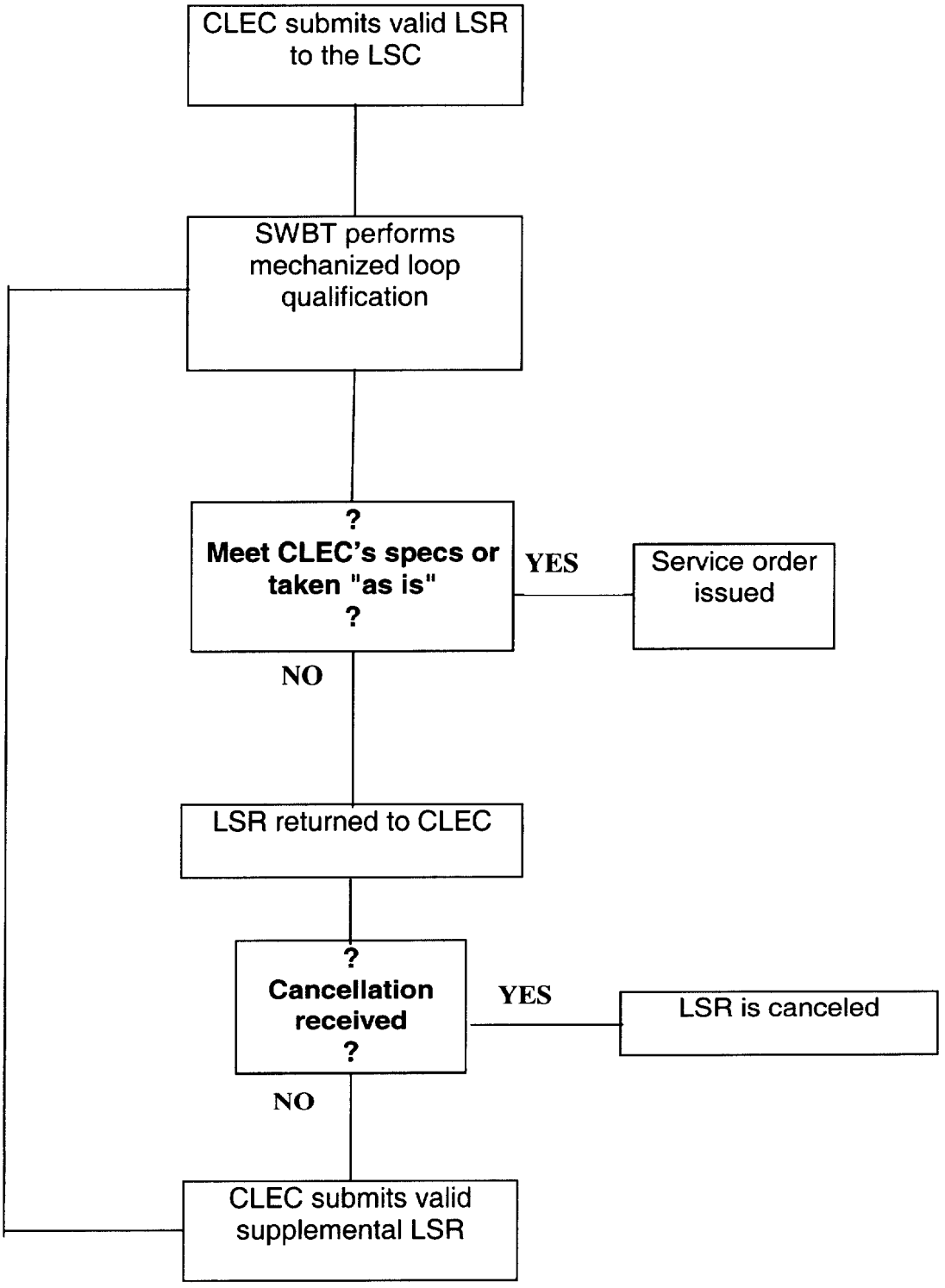
Orders will be handled in the same manner as before. If the requested loop meets the specifications listed by the CLEC on the LSR, an order will be issued. The LSC will not initiate a request for a manual loop qualification unless no information is available mechanically. (This should only occur in very rarely, if ever.)

CLECs may still use the "AS IS" option by utilizing the "UALNQX" SPEC code. Use of this SPEC code indicates the CLECs desire for SWBT to provision the loop regardless of whether the loop meets industry standards for the specified PSD.

Because CLECs will have the ability to view loop qualifications results at any time via their Verigate or DataGate interfaces, the LSC will no longer return loop qualification results as part of the one-step process.

An illustration of the new xDSL-capable loop order process follows:

xDSL Capable Loop Order Process



LSR Requirements

With the exception of the elimination of the tracking code, none of the LSR field entry requirements have changed. However, SWBT has provided new options for CLECs ordering xDSL capable loops for use PSD#5 (ADSL).

Shielded Cross Connect Options

Shielded cross connects are optional with xDSL capable loops used for PSD #5 (ADSL family of technologies). In the past, SWBT has assigned shielded cross connects for xDSL loops used for PSD #5 whenever the CFA field indicated that the loop would terminate on a shielded interconnection cable. In order to provide greater ordering flexibility to the CLEC, the process is changing.

As of March 18, CLECs will indicate the type of cross connect desired (shielded or non-shielded) by the NCI code on the LSR. The SECNCI code will not change. The NCI codes for shielded and non-shielded cross connects are as follows:

Non-shielded cross connects	02DU9.005/02QB9.005
Shielded cross connects	02QB9.0S5

Either of these options may be used with any xDSL capable loop used for PSD #5. This will provide CLECs with the ability to choose shielded or non-shielded cross connects for loops terminating in both shielded and non-shielded interconnection cables.

Cooperative Acceptance Testing Option

Some CLECs have incorporated terms for cooperative acceptance testing into their interconnection agreement. These CLECs may indicate their desire for cooperative acceptance testing by inputting a "Y" in ALBR (Additional Labor) field on the LSR and inputting "Cooperative Testing Requested" in the remarks section of the LSR.